

Nevada Marijuana Program

*Presented to the Governor's Advisory Panel for Creating a
Nevada Cannabis Compliance Board*

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Department of Taxation

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Agenda

- I. **Marijuana Enforcement Division Overview** – Melanie Young, Executive Director
- II. **Taxes & Audit** – Melanie Young, Executive Director
- III. **Enforcement and Compliance** – Jorge Pupo, Deputy Executive Director
- IV. **Licensing** – Steve Gilbert, Marijuana Program Manager
- V. **Tribal Agreements** – Jorge Pupo, Deputy Executive Director



Timeline of marijuana in Nevada

- 2001 Medical marijuana is legal in NV
- 2013 NV Legislature passes SB374, providing for state licensing of medical marijuana establishments
- 2015 NV's first licensed medical marijuana establishments become operational
- 2016 Voters pass Ballot Question 2, codified as NRS 453D
- Jan 1, 2017 Possession and consumption of marijuana become legal in NV
- Mar-May 2017 Governor's Task Force for the Regulation and Taxation of Marijuana Act
- May 8, 2017 Temporary regulation adopted, providing for the licensing and regulation of adult-use marijuana businesses
- July 1, 2017 Medical marijuana program moves from DPBH to Taxation; Medical Marijuana Tax changes to Wholesale Marijuana Tax and the Retail Marijuana Tax takes effect
First day adult-use licenses are active and adult-use sales begin; Department launches 3-month statewide public awareness campaign on safe and legal use
- Nov 1, 2017 Temporary regulation expires and emergency regulation goes into effect
- Feb 28, 2018 Permanent regulation goes into effect
- Mar 26, 2018 Department disburses \$5M for FY18 to local governments per SB487
- Nov 16, 2018 Period of exclusivity for adult-use marijuana licenses ends – eligibility is no longer limited to Medical Marijuana Establishment Certificate holders (liquor wholesalers for distribution licenses)
- Nov 23, 2019 **First day legislative amendment or repeal of NRS 453D allowed**



Marijuana Enforcement Division Overview

Summary of Regulatory Responsibilities

The Department of Taxation administers Nevada's legal medical and adult-use marijuana programs, ensuring the protection of public health and safety through a strict and rigorous regulatory scheme

- Establishes licensing qualifications for 9 license types and determines the need to license additional establishments in the state
- Reviews applications for licensure; issues initial and annual renewal of licenses; suspends, revokes, and reinstates licenses; issues civil penalties
- Reviews and makes determinations on transfers of ownership and location changes
- Establishes standards and procedures for the cultivation, production, testing, distribution, and sale of marijuana in Nevada
- Inspects and audits marijuana establishments to ensure compliance with state laws and regulations around issues such as security, testing, inventory tracking, labeling, and packaging
- Reviews all proposed marijuana establishment advertising and design



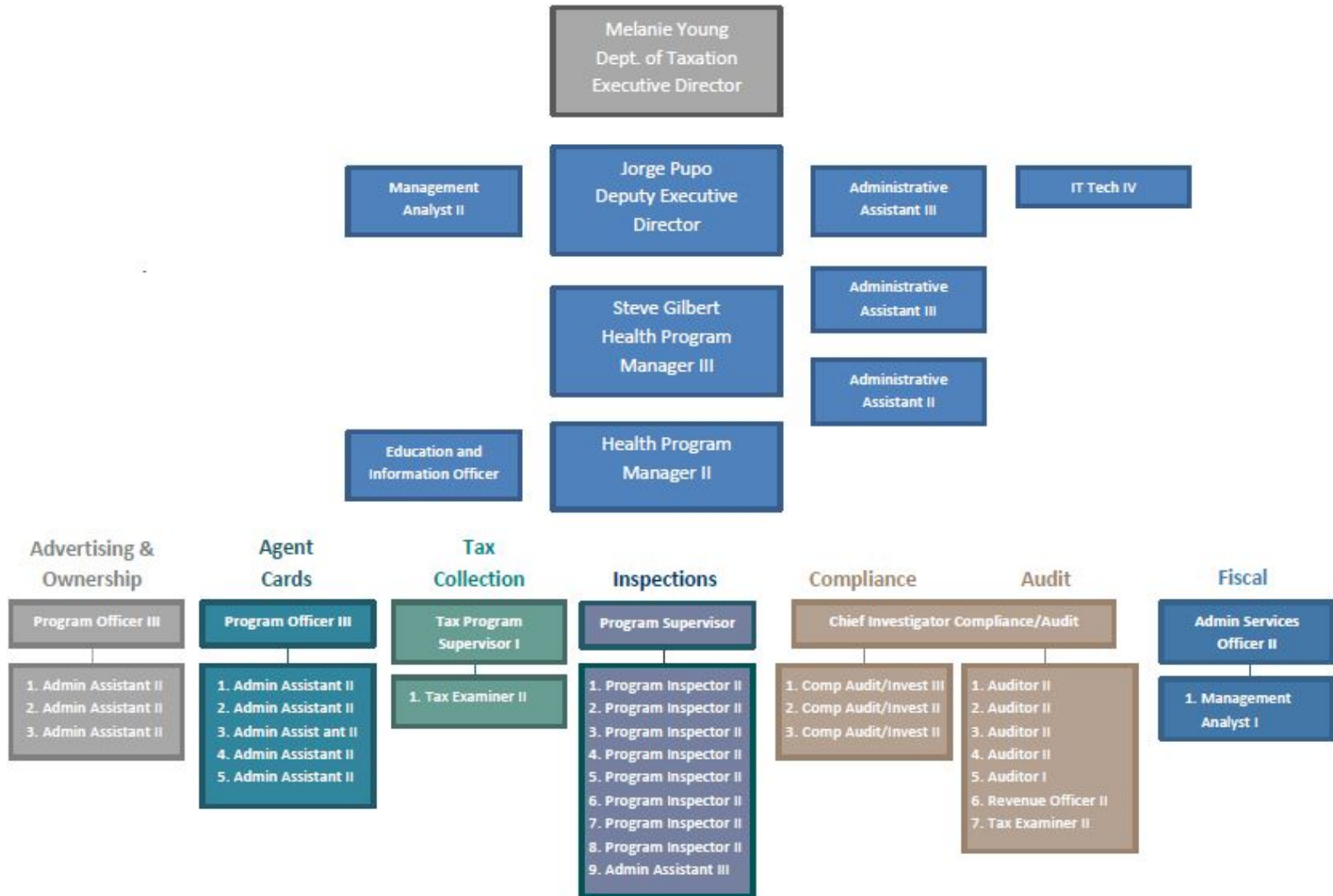
Marijuana Enforcement Division Overview

Marijuana Establishments

- **Cultivation Facility:** Cultivate, process, and package marijuana; has marijuana tested by lab; sell marijuana to product manufacturers, other cultivation facilities, and retail stores/dispensaries, but not to the consumer
- **Product Manufacturing Facility:** Purchase marijuana, manufacture, process, and package marijuana and marijuana products; has marijuana and marijuana products tested by lab; sell marijuana and marijuana products to other marijuana product manufacturing facilities and retail stores/dispensaries, but not to the consumer
- **Marijuana Testing Facility/Independent Testing Lab:** Test marijuana and marijuana products, including for potency and contaminants
- **Distributor** (adult-use only): Transport marijuana from a marijuana establishment to another marijuana establishment
- **Retail Marijuana Store/Medical Dispensary:** Purchase marijuana from marijuana cultivation facilities, purchase marijuana and marijuana products from product manufacturing facilities and retail marijuana stores/medical dispensaries, and to sell marijuana and marijuana products to consumers/patients



Marijuana Enforcement Division Overview





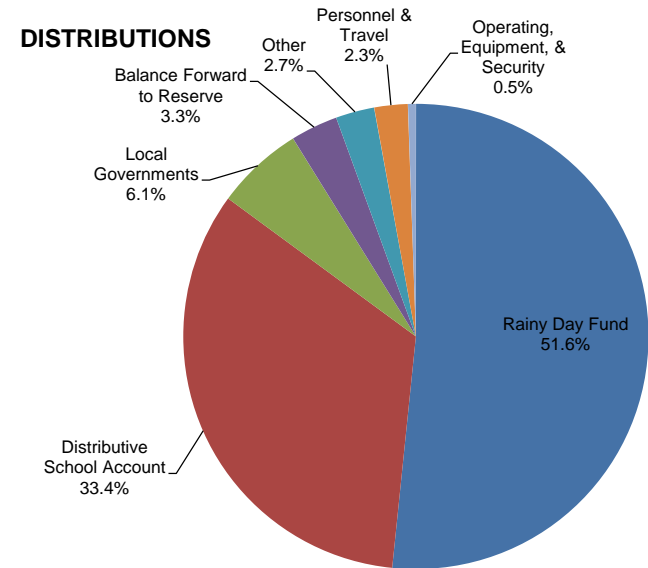
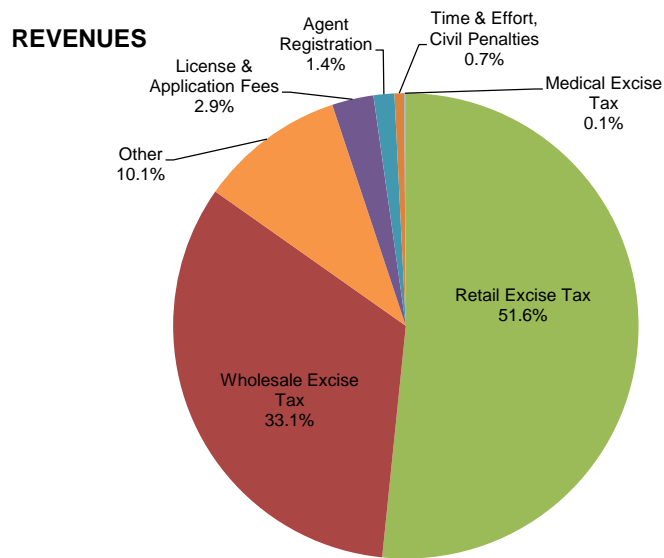
Marijuana Enforcement Division Overview

Current Budgeted Positions

Position Type		Number of Positions
Administration		9
Fiscal Services		2
Tax Collection		2
Compliance/Enforcement		
<i>Change of Ownership/Advertising Review</i>	4	
<i>Agent Cards</i>	6	
<i>Inspectors</i>	10	
<i>Investigators</i>	3	
<i>Auditors</i>	8	31
Licensing		0
TOTAL		44



FY18 Marijuana Revenues & Distributions



Revenue Description	Amount	%
Retail Excise Tax	\$42,489,202	51.6%
Wholesale Excise Tax	\$27,270,582	33.1%
Other	\$8,312,215	10.1%
License & Application Fees	\$2,381,896	2.9%
Agent Registration	\$1,187,150	1.4%
Time & Effort, Civil Penalties	\$552,469	0.7%
Medical Excise Tax	\$92,765	0.1%
Total	\$82,286,279	100.0%

Distribution Description	Amount	%
Rainy Day Fund	\$42,489,202	51.6%
Distributive School Account	\$27,518,741	33.4%
Local Governments	\$5,000,000	6.1%
Balance Forward to Reserve	\$2,706,729	3.3%
Other	\$2,204,509	2.7%
Personnel & Travel	\$1,920,596	2.3%
Operating, Equipment, & Security	\$446,502	0.5%
Total	\$82,286,279	100.0%



Marijuana Enforcement Division Overview

Operating Costs

Description	FY 2018 Division Operating Actuals	FY 2019 Division Operating Budget
PERSONNEL SERVICES	\$ 1,875,160.38	\$ 3,239,919.00
OUT OF STATE TRAVEL	6,765.36	12,674.00
IN STATE TRAVEL	38,670.72	45,234.00
OPERATING	273,652.92	394,425.00
EQUIPMENT	145,283.36	213,348.00
BUILDING SECURITY	27,565.80	270,835.00
DISPENSARIES AND ESTABLISHMENT	425,203.94	511,975.00
INFORMATION SERVICES	326,942.38	985,535.00
Human Resources COST ALLOCATION	6,837.00	6,837.00
PURCHASING ASSESSMENT	111.00	6,250.00
STATEWIDE COST ALLOCATION PLAN	11,680.00	11,680.00
AG COST ALLOCATION PLAN	58,877.00	61,790.00
Total	\$ 3,196,749.86	\$ 5,760,502.00



Marijuana Enforcement Division Overview

Key Statistics

- 659 final medical and adult-use certificates/licenses issued and 245 provisional/conditional certificates/licenses*
 - Each license is subject to annual renewal; Department reviews/processes each renewal application
- 11,932 current active marijuana agent cards; expected to continue to increase as industry grows
 - Department processes applications and issues agent cards, which are required for each employee, volunteer, owner, officer, and board member; annual renewal
- The Department received 8,158 proposed marijuana establishment advertising and packaging submissions for review in FY18 and 7,427 so far in FY19*
 - Average of 56 submissions received per day
 - Turnaround time for approval/denial averages 5.4 days
- The Department processed 136 ownership change requests and 34 location change requests in FY18

*As of January 2019

Nevada

DEPARTMENT OF TAXATION



Taxes & Audit



Taxes & Audit

Wholesale Marijuana Tax

- Applies to all marijuana (no designation as “medical” or “adult-use” at cultivation)
- Paid by the cultivator on the first transfer of product
- Rate is 15% on Fair Market Value at Wholesale
 - Value established by the Department based on the price that a buyer would pay to a seller in an arm’s-length transaction for marijuana in the wholesale market
 - Department resets Fair Market Value at Wholesale every six months (January and July) based on sales and transfer reports submitted by cultivators
- Current distribution: Along with fees, penalties, and assessments, first to pay the cost of the Department to administer the marijuana program, \$5 million per year to local governments for their costs, and the remainder to the Distributive School Account
- FY18 Collections: \$27.27 million



Taxes & Audit

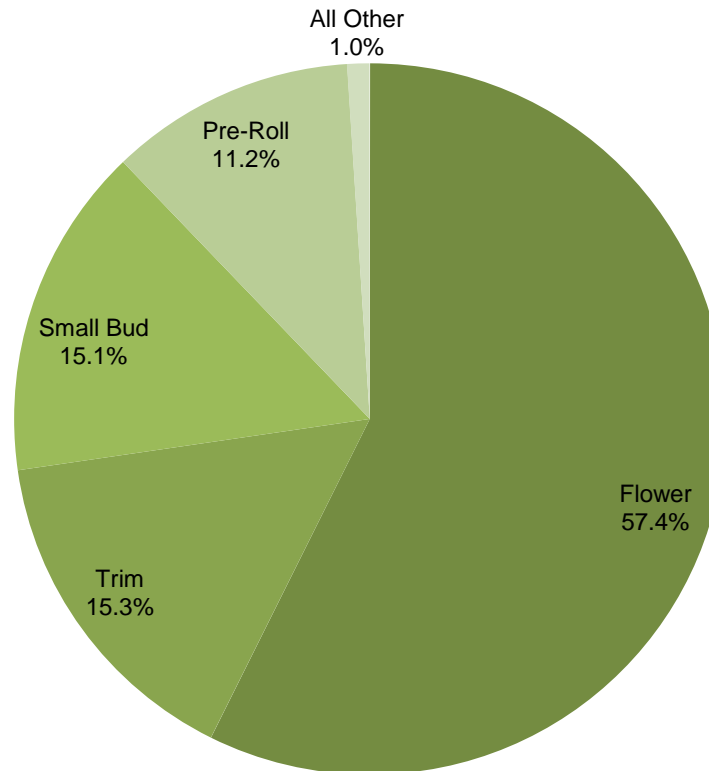
Wholesale Marijuana Tax Fair Market Value at Wholesale

Effective Dates	Flower (LB)	Trim (LB)	Small Bud (LB)	Wet Whole Plant (LB)	Immature Plant (EA)	Seed (EA)	Pre-Roll (EA)	Unsalable Flower Approved for Extraction (LB)	Unsalable Trim Approved for Extraction (LB)
July 1, 2017 - December 31, 2017	\$2,145	\$631	\$1,210	\$235	\$10	\$6.00	\$3.74	N/A	N/A
January 1, 2018 - June 30, 2018	\$2,268	\$601	\$1,500	\$200	\$100	\$6.00	\$5.00	N/A	N/A
July 1, 2018 - December 31, 2018	\$2,799	\$798	\$2,227	\$145	\$41	\$6.00	\$5.00	N/A	N/A
January 1, 2019 - June 30, 2019	\$2,303	\$794	\$2,041	\$191	\$51	<i>Discontinued</i>	\$5.00	\$850	\$617



Taxes & Audit

Proportion of Wholesale Transfers by Category July – November 2018





Taxes & Audit

Retail Marijuana Tax

- Applies to sales of adult-use marijuana and marijuana products to the consumer (not applicable to sales of medical marijuana)
- Remitted to the Department by the retail marijuana store
- Rate is 10% on the sales price
 - Separate from and in addition to general state and local sales and use taxes, which also apply to sales of medical marijuana and marijuana products
- Current distribution per SB 487: Account to Stabilize the Operation of the State Government (“Rainy Day Fund”)
- FY18 Collections: \$42.49 million



Taxes & Audit

Marijuana Audits

Marijuana Auditors (Division Auditors)

- Inventory (plants and all other marijuana product)
- Policies and procedures
- Gearing up to audit the Wholesale Marijuana Tax, Use Tax, and MBT of all cultivators

Taxation Compliance Auditors (Department Auditors)

- Sales Tax, Use Tax, Retail Marijuana Tax, Modified Business Tax

As of January, the Department has completed 9 audits with billings of \$54,543; 12 audits are in progress

Nevada

DEPARTMENT OF TAXATION



Enforcement and Compliance



Enforcement and Compliance

Definitions

Usable Marijuana

- The dried leaves and flowers of a plant of the genus Cannabis, and any mixture or preparation thereof
- The seeds of a plant of the genus Cannabis
- Does not include the stalks and roots of the plant

Marijuana-Infused Products

- Products that contain marijuana or marijuana extract and are intended for use or consumption by humans through means other than inhalation or oral ingestion
- Includes topical products, ointments, oils, and tinctures

Edible Marijuana Products

- Products that contain marijuana or marijuana extract and are intended for human consumption by oral ingestion
- Presented in the form of food, extracts, oils, tinctures, and other similar products

Enforcement and Compliance

Definitions

Concentrated Cannabis

- The extracted or separated resin, whether crude or purified, containing THC or CBD from marijuana



CRUMBLE
Dried oil with a honey-comb like consistency



BADDER/BUDDER
Concentrates whipped under heat to create a cake-batter like texture



SHATTER
A translucent, brittle, & often golden to amber colored concentrate made with a solvent



DISTILLATE
Refined cannabinoid oil that is typically free of taste, smell & flavor. It is the base of most edibles and vape cartridges



CRYSTALLINE
Isolated cannabinoids in their pure crystal structure



DRY SIFT
Ground cannabis filtered with screens leaving behind complete trichome glands. The end-product is also referred to as kief



ROSIN
End product of cannabis flower being squeezed under heat and pressure



BUBBLE HASH
Uses water, ice, and mesh screens to pull out whole trichomes into a paste-like consistency

Enforcement and Compliance

Definitions

Extraction

- The process or act of extracting THC or CBD from marijuana, including, without limitation, pushing, pulling, or drawing out THC or CBD from marijuana
- CO₂, Butane, Ethanol, Ice water, Heat



5000-5L Supercritical CO2 Extraction System





Enforcement and Compliance

Inspections

- Marijuana establishment inspections are conducted by the Marijuana Inspector II and Auditor II
- Responsible for checking compliance with the statutes and regulations
- Department has REHS-certified marijuana inspectors (Registered Environmental Health Specialists)
- Responsible for performing inspections on all marijuana establishments
 - Cultivation
 - Product Manufacturing
 - Labs/Testing Facilities
 - Distributors
 - Dispensary/Retail Store
- All establishments are required to be inspected annually for compliance (NAC 453D.292(7) and 453A.322(4))



Enforcement and Compliance

Inspections: Cultivation

Marijuana Inspectors check for compliance for the following:

- Overall grow operations (plant health, insect infestation, pathogens, diseased plants, etc.)
- Grow cannot be observed from outside
- Odor control/ventilation
- Proper batch and lot sizes
- Proper sampling of product for lab testing
- Research & development
 - Request received
 - Segregation
 - Labeling
- Facility modifications
 - Building is suitable in size, construction, and location
 - Separate and defined areas for different parts of the operations (quarantine, storage, etc.)
- Pesticide use
 - Ensuring that there is a certified pesticide applicator on staff
 - Ensuring only authorized pesticides are in use



Enforcement and Compliance

Inspections: Cultivation

Marijuana Inspectors check for compliance for the following:

- Safe handling of equipment
- Witness destructions
- Verify compliance of commercial weighing and measuring equipment
- Outdoor cultivations
 - Exterior barriers
 - Single-entry access



Enforcement and Compliance

Inspections: Production

The health departments of the local jurisdictions do not inspect any marijuana establishments; The responsibility falls on the Marijuana Enforcement Division, which regulates production facilities like restaurant kitchens

- Verification of Certified Food Protection Manager on staff
- Pest control
- Verify that marijuana has been approved for extraction by the Department
- Approval of recipes/homogeneity of products
- Use of personal protective equipment (hair and beard nets, etc.)
- Verification of serving sizes
- Verification of stamping and marking
- Verification of Good Manufacturing Practices (GMP)
- Prior to opening or modification, review of facility plans



Enforcement and Compliance

Inspections: Production

Disease prevention

- Check for and ensure that staff receives training on the relationship between the prevention of disease and personal hygiene of employees engaged in the extraction of product
- Check for and ensure that staff receives training on the prevention of the transmission of disease by staff engaged in the extraction and production of products who have a disease or medical condition that may be transmissible
- Check for and ensure that staff receives training on the symptoms associated with diseases that are transmissible through marijuana products and ingredients
- Check for and ensure that staff receives training on maintaining proper temperatures for potentially hazardous marijuana products and ingredients and the prevention of illness transmission



Enforcement and Compliance

Inspections: Production

- Check for and ensure that staff receives training on maintaining proper temperatures for potentially hazardous marijuana products and ingredients and the prevention of illness transmission
 - “Potentially hazardous marijuana products and ingredients” means an edible item that is natural or synthetic and that requires temperature control because the item is in a form capable of supporting:
 - (a) The rapid and progressive growth of infectious or toxigenic microorganisms;
 - (b) The growth and toxin production of *Clostridium botulinum*; or
 - (c) In raw shell eggs, the growth of *Salmonella enteritidis*.
 - 2. The term includes, without limitation:
 - (a) An animal item that is raw or heat-treated;
 - (b) An item of plant origin that is heat-treated or consists of raw seed sprouts;
 - (c) Cut melons and tomatoes;
 - (d) Garlic-in-oil mixtures that are not modified in a way that results in mixtures which prohibit growth; and
 - (e) Whipped butter.



Enforcement and Compliance

Inspections: Production

Management & control of:

- Cross contamination
- Hand contact with finished products and ingredients
- Hand washing
- Maintenance of establishment (clean & in good repair)
- Cleaning and sanitizing of surfaces & utensils
- Identification of poisonous or toxic materials (safekeeping/storage of chemicals)
- Cleaning and sanitation procedures
- Sanitation and food safety



Enforcement and Compliance

Inspections: Laboratories

Marijuana testing facilities/independent testing laboratories must test marijuana and marijuana products for the following:

- Cannabinoids
 - Delta-9 THC, THCA, CBD, CBDA, CBN
- Terpenes (approximately 10 of them-limonene, pinene, etc.)
- Microbials (Salmonella, E. Coli, yeast & mold, Aspergillus, etc.)
- Heavy metals (arsenic, lead, mercury, etc)
- Pesticide residue (approximately 25 pesticides)
- Mycotoxins (toxins produced by fungus)
- Residual solvents
- Moisture content
- Homogeneity (10% or less of the product can not contain 20% or more of THC)
- Foreign matter



Enforcement and Compliance

Inspections: Laboratories

Testing is conducted on:

- Usable marijuana (flower, trim, etc.)
- Crude and collected resins (kief)
- Wet marijuana
- Non-solvent extracts (hashish, etc.)
- Solvent-based extracts (concentrated cannabis) (shatter, budder, crumble, etc.)
- Edible marijuana products
- Liquid marijuana (soda, tonic, etc.)
- Topicals



Enforcement and Compliance

Inspections: Laboratories

Marijuana Inspectors inspect laboratories for the following:

- Inspectors must ensure that the laboratories are following the follow guidelines
 - The most current version of the *Cannabis Inflorescence: Standards of Identity, Analysis, and Quality Control* monograph published by the American Herbal Pharmacopoeia
 - *Recommendations for Regulators -- Cannabis Operations* published by the American Herbal Products Association
 - *Guidelines for Laboratories Performing Microbiological and Chemical Analyses of Food, Dietary Supplements, and Pharmaceuticals -- An Aid to the Interpretation of ISO/IEC 17025:2005* (2015) published by AOAC International
 - *OECD Series on Principles of Good Laboratory Practice (GLP) and Compliance Monitoring* published by the Organization for Economic Co-operation and Development
 - *Official Methods of Analysis of AOAC International, the Performance Tested Methods Program of the Research Institute of AOAC International*
 - *Bacteriological Analytical Manual* of the Food and Drug Administration
 - International Organization for Standardization, the United States Pharmacopeia, the *Microbiology Laboratory Guidebook* of the Food Safety and Inspection Service of the United States Department of Agriculture
 - *Standard ISO/IEC 17025* published by the International Organization for Standardization 30



Enforcement and Compliance

Inspections: Laboratories

- Approve alternative testing methods
- Verify sampling protocols
- Verify sample retention
- Review of Certificate of Analysis
- Verify that proficiency testing has been completed
- Verify methodologies used for testing
- Inspect and verify equipment used for product testing



Enforcement and Compliance

Inspections: Retail Stores/Dispensaries

Marijuana Inspectors inspect Retail Stores/Dispensaries for the following:

- Verify that packaging and labeling has the required information and that packaging has been approved by the Department
- Verify that required warnings and literature are supplied to the consumer
- Ensuring there is not unlawful consumption occurring. No public consumption
- Ensuring sell limits are adhered to
- Verify that child resistant containers are available for sale
- Verify that food, beverage, or personal care products are not being sold
- Ensure that nicotine or alcohol products are not being sold
- Inspect storage of products
- Verify that Certificates of Analysis are available to the consumer for products sold
- Check inventory for serving size, stamping, marking, etc.
- Ensure that age verification is taking place and that appropriate devices are being used



Enforcement and Compliance

Inspections: Retail Stores/Dispensaries

Marijuana Inspectors inspect Retail Stores/Dispensaries for the following:

- Ensure that staff has been trained on:
 - The effects of marijuana on persons under 21 years of age
 - Methods of use
 - Signs of marijuana abuse, impairment by consumer
 - Clinical effects of marijuana on the human body and the effects of THC on the consumer
 - Recognition of false identification
 - How to prevent disturbances
 - Preventing diversion
 - Training on the different strains
- Ensuring that medical grade product is only sold to holders of a medical marijuana card



Enforcement and Compliance

Inspections: Distributors & Deliveries

Marijuana Inspectors inspect Distributors & deliveries for the following:

- Verify that transportation manifests are being created by the seed-to-sale tracking system for each delivery
- Verify that only marijuana, marijuana products, marijuana paraphernalia, or marijuana merchandise is being delivered/transported
- Verify that deliveries are only made during the store's hours of operation
- Verify that there is a delivery route/trip plan
- Verify security of the product for delivery
- Verify undeliverable product is returned and inventory reconciliation takes place
- Ensure that vehicle is not carrying more than five ounces at any given time
- Ensure that not more than one ounce of product or its equivalent is delivered to a single consumer
- Ensure that deliveries are not made to gaming establishments
- Ensure that age verification is occurring
- Check vehicle for vehicle inspection approval from the Department
- Ensure that Distributors are complying with temporary storage requirements



Enforcement and Compliance

Marijuana Enforcement Division: Auditor II

Marijuana Auditor IIs are responsible for the following for all establishments:

- Responsible for verifying agent cards for owners, officers, board members and employees
- Ensuring that each establishment has valid state and local licensing for the activities of the establishment
- Verifying inventory (Reconciling inventory on-hand with the seed-to-sale inventory system)
- Verifying the source of acquired plants, seeds, clones and products



Enforcement and Compliance

Marijuana Enforcement Division: Auditor II

Marijuana Auditor IIs are responsible for the following for all establishments:

- Responsible for reviewing and making recommendations on internal training, policies and procedures relating to:
 - Good Manufacturing Practices (GMP) as outlined in NAC 453D
 - Security
 - Video surveillance
 - Video requirements, including storage and retention
 - Lighting
 - Prevention of unauthorized access
 - Prevention of theft, loss and diversion
 - Emergency response
 - First Aid
 - Reporting of loss or theft
 - Transportation/delivery
 - Cash handling



Enforcement and Compliance

Marijuana Enforcement Division: Auditor II

Marijuana Auditor IIs are responsible for the following for all establishments:

- Security Audits
- ID Scanners for age verification
- Identification of authorized persons
- Prevention of loitering
- Electronic monitoring
- Electronic notification to law enforcement
- Providing and receiving notification of criminal activity
- Training on use of extraction equipment
- Safe handling & storage of solvents and gases
- Quality Control
 - Product containers, closures, in-process materials, packaging materials, labeling, marijuana & marijuana products
- Accuracy of production records
 - Method of investigating and resolving errors
 - Procedures or specifications which may impact the identity, strength, quality and purity of the products
- Quarterly inventories
- Clothing and protective apparel
- Production and process controls



Enforcement and Compliance

Marijuana Enforcement Division: Auditor II

Marijuana Auditor IIs are responsible for the following for all establishments:

- Good sanitation and health habits
 - Cleaning schedules (building and equipment)
 - Cleaning methods (equipment & materials; utensils)
 - Use of appropriate rodenticides, insecticides, fungicides, fumigating agents and cleaning and sanitizing agents
- Receipt, identification, storage, handling, sampling, testing, and approval or rejection of components, product containers, packaging, and labeling
- Agent training specific to the type of establishment
- Quality assurance program
- Destruction of product
- Reconciliation of raw material to finished product
- Document retention
- Transportation/delivery
- Audit of the 15% Wholesale Marijuana Tax, Use Tax, Modified Business Tax of cultivators



Enforcement and Compliance

Marijuana Enforcement Division: Compliance/Audit Investigator

Investigators conduct the more complex, in-depth investigations that require a significant amount of time to complete. Types of investigations include:

- Employee/customer Theft
- Laboratory shopping (potency, result manipulation)
- Improper/inaccurate reporting in seed-to-sale system
- Unapproved packaging/labeling
- Unapproved products
- Unapproved advertising
- Participation in unapproved events
- Medical grade product sold as retail product
- Age not being verified
- Sales to minors
- Operating without a license
- Improper destruction or failure to destroy



Enforcement and Compliance

Marijuana Enforcement Division: Compliance/Audit Investigator

Investigators conduct the more complex, in-depth investigations that require a significant amount of time to complete. Types of investigations include:

- Improper destruction or failure to destroy
- Working without agent card
- Illegal use of pesticide
- Receiving out of state product/plants
- Unauthorized research and development
- Unsanitary conditions



Enforcement and Compliance

Marijuana Enforcement Division: Compliance/Audit Investigator

Enforcement tools include:

- Statement of Deficiencies
- Civil penalties (NAC 453D.905)
- Seizures
- Subpoenas
- Tax liens
- Levy/garnishments
- Suspension
- Revocation



Enforcement and Compliance

Marijuana Enforcement Division: Compliance/Audit Investigator

Statement of Deficiencies

- Issued by Marijuana Inspectors and Auditors and forwarded for review to Investigators to determine civil penalties and to make a determination if the deficiencies warrant further investigation
- Issued within 72 hours of inspection (except for labs)
- Establishment has 10 days to submit a plan of correction
- If the Division approves the Plan of Correction, the Division issues an approval letter
- If the Division does not approve of the Plan of Correction and cannot come to an agreement with the licensee on a course of action, the Division may issue a Directed Plan of Correction



Enforcement and Compliance

Marijuana Enforcement Division: Compliance/Audit Investigator

Civil Penalties (NAC 453D.905)

- Civil penalties are made up of 5 categories
- Penalties range from a written warning (Cat V) to a 30-day suspension and \$35,000 penalty to revocation (Cat I)
- Graduated penalty depending on number of violations in a two-year period (depending on gravity of violation)

Determining the amount of any civil penalty

The Department shall take into account:

- The gravity of the violation
- The economic benefit or savings (if any) resulting from the violation
- The size of the violator's business
- The violator's history of compliance with 453D AND 453A
- Actions taken to remedy the violation
- The effect of the penalty on the violator's ability to continue business



Enforcement and Compliance

Marijuana Enforcement Division: Compliance/Audit Investigator

Civil Penalties (NAC 453D.905)

Violation Categories

- Category I - Violations are violations of a severity that make a person ineligible to receive a license
- Category II - Violations that create a present threat to public health or safety
- Category II(b) - Violations are violations for failing to verify the age of, or selling or otherwise providing marijuana or marijuana paraphernalia to, a person who is less than 21 years of age
- Category III - Violations that create a potential threat to public health or safety
- Category IV - Violations that create a climate which is conducive to abuses associated with the sale or production of marijuana or marijuana products
- Category V- Violations that are inconsistent with the orderly regulation of the sale or production of marijuana or marijuana products



Enforcement and Compliance

Marijuana Enforcement Division: Compliance/Audit Investigator

Civil Penalties (NAC 453D.905)

Due Process

- Civil Penalty assessed with notice and opportunity for hearing:
 - Licensee has 30 days to request hearing
 - Hearing held before an Administrative Law Judge
 - ALJ issues Findings of Fact, Conclusion of Law decision
 - Licensee may appeal decision to the Nevada Tax Commission
 - Licensee may file Petition for Judicial Review
 - Licensee may appeal to the courts
- Due process procedures above are the same for:
 - Tax audit
 - Civil penalty
 - Suspension (non-summary)-Show Cause
 - Seizures (non-summary)
 - Revocations
- Summary suspensions and seizures
 - Notice and opportunity for hearing are set within 10 days of the action



Enforcement and Compliance

Marijuana Enforcement Division: Compliance/Audit Investigator

Seizures

- The Department may summarily seize and remove from the premises any marijuana or marijuana products and impound any equipment, supplies, documents or records for the purpose of examination and inspection (NAC 453D.292)

Summary Suspension

- The Department may summarily suspend a license if there is an immediate threat to public health, safety, or welfare (NRS 233B.127(3))

Subpoenas

- The Department may issue subpoenas to compel the attendance of witnesses and the production of books and papers and may seek to enforce the subpoenas by petition to any court of competent jurisdiction in the manner provided by law (NAC 453D.292(4)(b))
- The Department will not issue a subpoena to compel the production of books and papers that contain individually identifiable health information



Enforcement and Compliance

Marijuana Enforcement Division: Compliance/Audit Investigator

Tax Lien

- The Department may record a certificate of tax delinquency with any county recorder within four years that the tax or fee was due (NRS 360.473)
- Lien includes penalties and interest
- Lien may be renewed every five years

Levy / Garnishments

- The Department may issue a notice of delinquency and demand to transmit assets to any person who has in his or her possession or under his or her control any credits or other personal property belonging to the delinquent, or owing any debts to the delinquent or person against whom a determination has been made which remains unpaid, or owing any debts to the delinquent or that person (NRS 360.510)



Enforcement and Compliance

Enforcement Statistics

Civil Penalties

- The Division has assessed \$603,250 and has collected \$181,500. \$412,250 has been assessed to one licensee and is pending the signing of a settlement agreement

Complaints / Investigations

- July 1, 2017 – June 30, 2018 there were 234 investigations; 146 were substantiated
- July 1, 2018 – January 11, 2018 there have been 75 investigations opened and 49 have been substantiated

Suspensions

- The Division has suspended eight establishments ranging from five days to five months; One currently has a revocation proceeding stayed while the Division discusses a settlement

Hearings

- The Division has yet to have a hearing on a civil penalty or suspension; Licensees have paid the penalty and accepted the investigator's finding of the violations



Enforcement and Compliance

Enforcement Statistics

Seizures

- The Division has seized the following amounts of marijuana or marijuana products:
 - 89 Plants
 - 74 pounds of flower
 - 200 pounds of trim
 - 5,101 units of concentrate
 - 895 edibles
 - 308 units of shatter
 - 395 pre-rolled joints
- Seizure reasons:
 - Untagged product – unable to track or trace
 - Unable to verify source
 - Improper labeling
 - Unapproved packaging



Enforcement and Compliance

Results of Enforcement Efforts

- No recalls of product
- No foodborne illness or disease outbreaks
- Completed at least one inspection at 100 percent of all operational establishments every year
- First state to test for heavy metals
- Only state with internal lab inspectors; we have been able to correct several practices that potentially threaten public health and/or safety
- Receive, review, and respond to failed lab tests monthly
- Work closely with the Department of Agriculture to develop approved pesticide list and tolerance limits
- High compliance rates compared to other states
- No documented diversion in the state
- HACCP and food safety certified inspectors

Nevada

DEPARTMENT OF TAXATION



Licensing



Licensing

Adult-Use License and Medical Certificate Types

Pursuant to NRS 453D.210 and 453A.322, the Department issues licenses for:

1. Marijuana Cultivation Facility (Adult-Use)
2. Marijuana Product Manufacturing Facility (Adult-Use)
3. Marijuana Testing Facility (Adult-Use)
4. Marijuana Distributor (Adult-Use)
5. Retail Marijuana Store (Adult-Use)
6. Medical Marijuana Cultivation Facility
7. Medical Marijuana Production Facility
8. Independent Testing Laboratory (Medical)
9. Medical Marijuana Dispensary



Licensing

Jurisdiction Allocation Limits Retail Stores/Dispensaries

NRS 453D.210 (5)

Sets the cap for Retail Marijuana Store licenses to 132, with individual county caps based on county population

- Greater than 700,000 (Clark) - 80 licenses
- 100,000-700,000 (Washoe) - 20 licenses
- 55,000-100,000 (Carson) 4 licenses
- Less than 55,000 - 2 licenses each county (28 total)

NRS 453A.324 (1)

Sets the cap for Medical Marijuana Dispensary certificates to 66, with individual county caps based on county population

- Greater than 700,000 (Clark) - 40 licenses
- 100,000-700,000 (Washoe) - 10 licenses
- 55,000-100,000 (Carson) - 2 licenses
- Less than 55,000 - 1 licenses each county (14 total)
- In the 2015 Legislative Session, 11 rural dispensary certificates were reallocated to Clark County and Washoe County



Licensing

Application Period Requirements

Timeframes

- Adult-use applications: 45-business-day Notice of Intent to Accept Applications
- Medical applications: 30-day Notice of Intent to Accept Applications
- 10-business-day application period
- 90 days for the Department to evaluate, award, and notify applicants



Licensing

Adult-Use Marijuana License Exclusivity Period

NRS 453D.210

(2) For 18 months after the Department begins to receive applications for marijuana establishments, the Department shall only accept applications for licenses for retail marijuana stores, marijuana product manufacturing facilities, and marijuana cultivation facilities pursuant to this chapter from persons holding a medical marijuana establishment registration certificate pursuant to chapter 453A of NRS.

(3) For 18 months after the Department begins to receive applications for marijuana establishments, the Department shall issue licenses for marijuana distributors pursuant to this chapter only to persons holding a wholesale dealer license pursuant to chapter 369 of NRS, unless the Department determines that an insufficient number of marijuana distributors will result from this limitation.

Exclusivity period expired on November 16, 2018



Licensing

Historical Application Periods

Date	Application Type	Applications Received / Approvals
2014	First medical marijuana application period for cultivation, dispensary, laboratory, and production (DPBH)	519 / 372
May 2017	First round of applications for adult-use licenses; one-for-one and distributors	331 / 331
Nov 2017	Medical Marijuana Dispensary certificate in cities whose population is less than 100,000	4 / 4
Nov 2017	Adult-use licenses; one-for-one and distributors	51 / 51
Jan 2018	Rural Medical Marijuana Cultivation or Production Certificate	52 / 52
Jun 2018	Adult-use licenses; one-for-one and distributors	77 / 77
Jun 2018	Medical Marijuana Dispensary certificate for White Pine County	5 / 1
Sep 2018	Retail Marijuana Store licenses (adult-use)	462 / 61
Oct 2018	Adult-use licenses; one-for-one and distributors	32 / 32



Licensing

September 2018 Retail Marijuana Store License Application Period

County	Allocation of Licenses Pursuant to NRS 453D.210	Conditional Licenses Issued On 12/5/18
CARSON CITY	2	2
CHURCHILL COUNTY	1	0
DOUGLAS COUNTY	2	2
ELKO COUNTY	1	1
ESMERALDA COUNTY	2	2
EUREKA COUNTY	2	2
HUMBOLDT COUNTY	2	2
LANDER COUNTY	2	2
LINCOLN COUNTY	2	1
LYON COUNTY	1	1
MINERAL COUNTY	2	2
NYE COUNTY	1	1
PERSHING COUNTY	2	1
STOREY COUNTY	2	2
WHITE PINE COUNTY	2	2
WASHOE COUNTY- RENO	6	6
WASHOE COUNTY- SPARKS	1	1
WASHOE COUNTY- UNINCORPORATED WASHOE	0	0
CLARK COUNTY- HENDERSON	6	6
CLARK COUNTY- LAS VEGAS	10	10
CLARK COUNTY- MESQUITE	0	0
CLARK COUNTY- NORTH LAS VEGAS	5	5
CLARK COUNTY- UNINCORPORATED CLARK COUNTY	10	10
TOTAL	64	61



Licensing

September 2018 Retail Marijuana Store License Application Period

2018 Retail Marijuana Store Application Criteria		
Financial Plan	Points Possible: 40	Includes 30 points for financial plan and 10 points for 250K liquid assets
Organizational Structure	Points Possible: 60	
Taxes Paid and Beneficial Contributions	Points Possible: 25	Includes 20 points for Diversity
Total Identified Criteria	Points Possible: 125	
Likely Impact on the Community	Points Possible: 15	
Adequacy of Size Building and Construction Plans	Points Possible: 20	
Care, Quality, and Safekeeping	Points Possible: 90	Includes 40 points for Integrated plan for care and safe keeping, 30 points for education plan, 20 points for operating procedures for seed to sales systems
Total Non-Identified Criteria	Points Possible: 125	
Total Score	Points Possible: 250	



Licensing

Prevention of Monopolistic Practices

NAC 453D.272 (5)

To prevent monopolistic practices, the Department will ensure, in a county whose population is 100,000 or more, that the Department does not issue, to any person, group of persons or entity, the greater of:

- (a) One license to operate a retail marijuana store; or
- (b) More than 10 percent of the licenses for retail marijuana stores allocable in the county.



Licensing

Conditional Adult-Use License Approvals

Within 12 months, the applicant must provide:

- \$20,000 license fee due within 10 days
- Local jurisdiction authorization to operate
- Successful inspections by local fire, building, air quality
- Successful pre-opening inspections by the Department
- Current and valid state business license
- Obtained required zoning from the local jurisdiction



Licensing

Statewide Marijuana License/Certificate Count

Licensed Marijuana Facilities - Updated 1/25/19

Active						
Type	Cultivation	Production	Distribution	Dispensary	Laboratory	Total
Medical	149	102	0	65	11	327
Recreational	130	92	34	65	11	332
Total	279	194	34	130	22	659

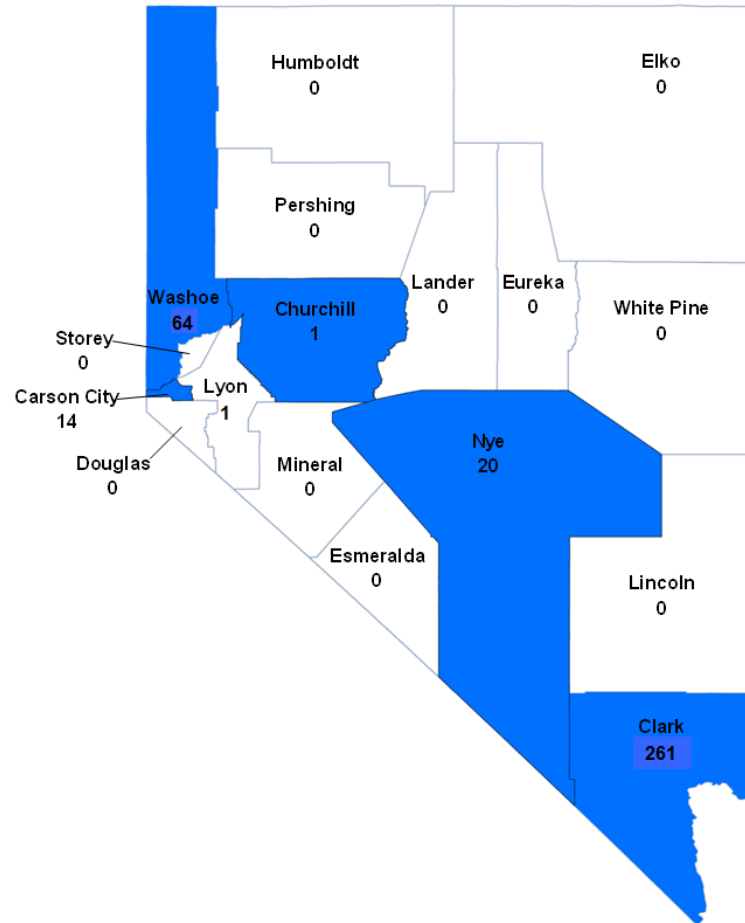
Provisional/conditional						
Type	Cultivation	Production	Distribution	Dispensary	Laboratory	Total
Medical	37	31	0	3	0	71
Recreational	86	35	0	61	1	183
Total	123	66	0	64	1	254

Combined total						
Type	Cultivation	Production	Distribution	Dispensary	Laboratory	Total
Medical	186	133	0	68	11	398
Recreational	216	127	34	126	12	515
Total	402	260	34	194	23	913



Licensing

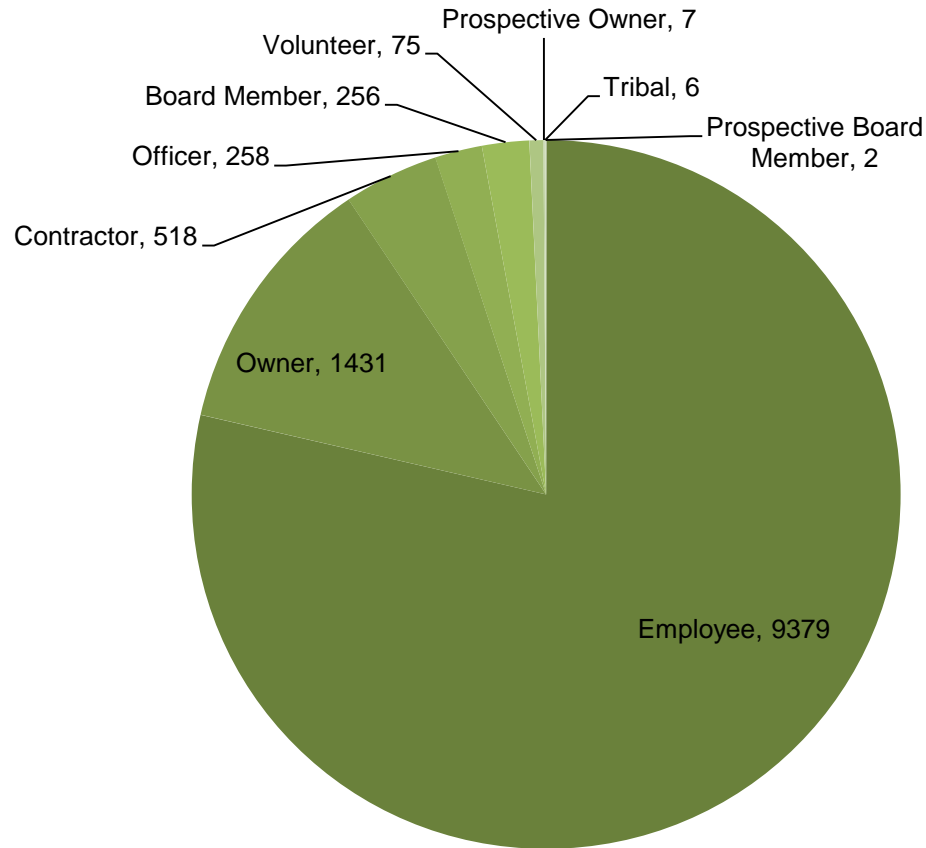
361 Active Licensed/Registered Marijuana Establishments



As of February, 2019



Marijuana industry agent cards by type



Total Agent Cards: 11,932

Nevada

DEPARTMENT OF TAXATION



Tribal Agreements



Tribal Agreements

SB 375 (2017)

The 79th session of the Nevada Legislature passed SB 375 and subsequently signed by Governor Sandoval

- Authorizes the Governor or his designee to enter into one or more agreements with tribal governments to efficiently coordinate the cross-jurisdictional administration of the laws of Nevada and tribal laws relating to the use of marijuana
- SB 375 based on the foundation of the “Cole” and “Wilkinson” memos
- Agreements may contain provisions related to:
 - Criminal and civil law enforcement
 - Regulatory issues relating to the possession, delivery, production, processing or use of marijuana, edible marijuana products, marijuana-infused products and marijuana products
 - Medical and pharmaceutical research involving marijuana
 - The administration of laws relating to taxation
 - Any immunity, preemption or conflict of law relating to the possession, delivery, production, processing, transportation or use of marijuana, edible marijuana products, marijuana-infused products and marijuana products
 - The resolution of any disputes between a tribal government and this State, which may include, without limitation, the use of mediation or other nonjudicial processes



Tribal Agreements

SB 375 (2017)

- Agreements entered into must include:
 - Provide for the preservation of public health and safety
 - Ensure the security of medical marijuana establishments and marijuana establishments and the corresponding facilities on tribal land
 - Establish provisions regulating business involving marijuana which passes between tribal land and non-tribal land in this state
- The states' goal is to enter into a co-equal sovereign partnership with the tribes to protect the public health, safety, and welfare



Tribal Agreements

U.S. Attorney General Memos

The “Cole” and “Wilkinson” memos are the foundation of SB 375

- The Cole Memo: U.S. Department of Justice memorandum issued August 29, 2013, by U.S. Deputy Attorney General James M. Cole
- The Cole Memo provides guidance to U.S. Attorneys on the proper prioritization of marijuana enforcement in their districts
- The Cole Memo stated that due to its limited resources, the DOJ would not strictly enforce the federal prohibition of cannabis in states that had legalized marijuana and have “implemented strong and effective regulatory and enforcement systems...”
- The memo adds that “a system adequate to that task must not only contain robust controls and procedures on paper, it must also be effective in practice”



Tribal Agreements

U.S. Attorney General Memos

The Cole Memo lists eight federal law enforcement priorities where the DOJ will focus its limited investigative and prosecutorial resources in all states. These eight priorities are to prevent:

1. Distribution of marijuana to minors
2. Revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels
3. Diversion of marijuana from states where it is legal under state law in some form to other states
4. State-authorized marijuana activity from being used as cover or pretext for the trafficking of other illegal drugs or illegal activity
5. Violence and the use of firearms in the cultivation and distribution of marijuana
6. Drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use
7. Growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands
8. Marijuana possession or use on federal property



Tribal Agreements

U.S. Attorney General Memos

The Wilkinson Memo: U.S. Department of Justice memorandum issued October 28, 2014, by the Director of the United States Attorneys Robert “Monty” Wilkinson

- The memorandum is a policy statement regarding marijuana issues in Indian Country
- Applies the Cole Memo guidance and law enforcement priorities to Indian Country



Tribal Agreements

U.S. Attorney General Memos

U.S. Attorney General Jeff Sessions

- On January 4, 2018, U.S. Attorney General Sessions rescinded all previous guidance regarding marijuana as unnecessary
- The following memorandums were rescinded:
 - David W. Ogden, Deputy Att'y Gen., Memorandum for Selected United States Attorneys: Investigations and Prosecutions in States Authorizing the Medical Use of Marijuana (10/19/09)
 - James M. Cole, Deputy Att'y Gen., Memorandum for United States Attorneys: Guidance Regarding the Ogden Memo in Jurisdictions Seeking to Authorize Marijuana for Medical Use (6/29/11)
 - James M. Cole, Deputy Att'y Gen., Memorandum for All United States Attorneys: Guidance Regarding Marijuana Enforcement (8/29/13)
 - James M. Cole, Deputy Att'y Gen., Memorandum for All United States Attorneys: Guidance Regarding Marijuana Related Financial Crimes (2/14/14)
 - Monty Wilkinson, Director of the Executive Office for U.S. Att'ys, Policy Statement Regarding Marijuana Issues in Indian Country (10/28/14)
- Despite the rescission of the memos, the state and tribes continue to follow the guidance of the Cole and Wilkinson memos and the list of enforcement priorities



Tribal Agreements

Current Agreements

The state has entered into marijuana agreements with the following tribes:

- Ely Shoshone Tribe
- Fallon Paiute-Shoshone Tribe
- Fort McDermitt Paiute and Shoshone Tribe
- Las Vegas Tribe of Paiute Indians
- Lovelock Paiute Tribe
- Pyramid Lake Paiute Tribe
- Walker River Paiute Tribe
- Yerington Paiute Tribe

The state is negotiating agreements with the following tribes:

- Timbisha Shoshone Tribe
- Moapa Band of Paiutes



Tribal Agreements

Current Agreements

The state paused from entering into any new agreements until we could address issues with the current agreements and develop a uniform agreement for all tribes while allowing for small differences in the agreements due to the uniqueness of each tribe.

Issues with current agreements:

- Agreements are founded upon rescinded memos that effectively change the marijuana enforcement policies of DOJ
- Definition of Indian Country
 - The definition of Indian Country varies in the agreements. Some agreements have “Fee” status land included in the definition; “Fee” status land is not included in the definition of Indian Country in 18 USC 1151



Tribal Agreements

Current Agreements

Issues with current agreements:

- State taxes
 - Agreements have provisions to refund state taxes to the tribes, but there is no statutory authority to refund taxes to tribes
- Compliance with SB 375
 - Agreements do not establish provisions regulating business involving marijuana that passes between tribal land and non-tribal
- Dispute resolution/jurisdictional issues- agreements vary regarding the forum in which disputes are to be heard
 - United States District Court of Nevada
 - American Arbitration Association (“AAA”)



Tribal Agreements

Uniform Agreements

The uniform agreements proposed by the state address the issues in the current agreements and address issues that have arisen since the current agreements were entered into. The uniform agreements use the framework of Nevada Gaming Compacts.

- Defines “Indian Country” as set forth in 18 USC 1151
- Addresses the use and vetting of “Management Companies” or “Management Contractors”
- Requires, generally, adoption of NRS Chapters 453A and NRS 453D and all current regulations, with some exceptions.
- Provides a process for notification, objection, and dispute resolution to parties of changes in Nevada law or tribal code



Tribal Agreements

Uniform Agreements

- Defines the standards of activity for marijuana establishments
- Defines what marijuana activities may be conducted by marijuana establishments in Indian Country
- Defines operating standards
 - Agent cards
 - Background checks
 - Distance requirements from a public or private school and community facilities
- Enforcement
 - Allows for joint inspections
 - Allows for unannounced inspections of marijuana establishments
 - Process for investigation of complaints by tribe or jointly
 - Allows for the state to conduct compliance checks using minors ages 18-20 in Indian Country
 - Establishes disciplinary actions and civil penalties and the sharing of information between both parties
 - Addresses the issue of marijuana passing between state and tribal land



Tribal Agreements

Uniform Agreements

- Establishes the use of the Fair Market Value at Wholesale as determined by the Department
- Allows for audit compliance by certified public accountant
- Establishes state services
 - Review of marijuana establishment agent cards
 - Costs associated with the state’s seed-to-sale tracking system
 - The cost of time and effort to perform pre-inspections requested by the tribe
 - Tribe may contract with the state to provide additional services related to the regulation of marijuana activities by the tribe
- Addresses jurisdictional issues
 - Written notice of dispute
 - Meet and confer within 20 days
 - Mediation by American Arbitration Association (“AAA”)
 - Binding arbitration
 - Each party picks an arbitrator
 - Arbitrators pick a third
 - No right to appeal

Nevada

DEPARTMENT OF TAXATION



Questions?